FARAD CONTINUATION SHEET

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE,
NAGUR BENCH, NAGPUR.

DISTRICT:

Criminal Application No.1292/2005

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Office Note, Office Memoranda of Coram, appearance, Court's Orders or directors and registrar's orders | Court's or Judge's orders

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Coram : A.P.Lavande, J.
Dated : February 10, 2006

Heard Mr. A.V. Palshikar, learned counsel for the applicant.

By this application under Section 482 of the Code of Criminal Procedure, the applicant challenges the judgment and order dated 23.3.2004 passed by the Sessions Judge, Buldana in Criminal Revision No.18 A/1996 allowing the revision filed by the respondents against judgment and order dated 5.1.1996 passed in Misc. Cri. Case No.151/95 by the Judicial Magistrate First Class, Buldana.

Respondent no.1 claiming herself to be the wife of the applicant and mother of two minor children – respondent nos. 2 and 3 filed an application under Section 125 of the Code of Criminal Procedure before the Judicial Magistrate First Class, Buldana claiming maintenance @ Rs.500/- per month for each of the applicants. The Magistrate after appreciating the evidence led by the parties granted maintenance @ Rs. 100/- per month in favour of respondent nos. 2 and 3 but rejected the application insofar as respondent no.1 is concerned, on the ground that respondent no.1 had failed to prove that she was legally married to the applicant. The revision preferred against the said judgment and order by the respondents was allowed and maintenance of Rs. 300/- per month has been granted in favour of respondent no.1. Insofar as the grant of maintenance to respondent nos.2 and 3 are concerned, the same has attained finality since the applicant did not file revision challenging the maintenance granted in favour of

respondent nos. 2 and 3. The Trial Court held that once it was proved that respondent nos.2 and 3 were children of the applicant and respondent no.1 and in view of the fact that respondent no.1 has proved that she was unable to maintain herself, respondent no.1 was entitled for maintenance and accordingly granted maintenance @ Rs. 300/- per month in favour of respondent no.1. Mr. Palshikar, learned counsel for the applicant submitted that the findings recorded by the Revisional Court are perverse and therefore, interference is called for by this Court in exercise of jurisdiction under Section 482 of the Code of Criminal Procedure.

I have considered the submissions made by the learned counsel for the applicant.

It is well settled by catena of decisions of the Apex Court that jurisdiction under Section 482 of the Code of Criminal Procedure has to be sparingly exercised in exceptional circumstances in order to secure the ends of justice or to prevent

abuse of process of the Court.

In the present case by passing the impugned order justice has been done to respondent no.1 and the Revisional Court has granted maintenance of Rs. 300/- per month in her favour. I am unable to accept the submission of Mr. Palshikar that the findings recorded by the Revisional Court are perverse. In my opinion, no case is made out for interference in exercise of jurisdiction under Section 482 of the Code of Criminal Procedure. I find no merit in the present application and the same is summarily rejected.

JUDGE

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